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EXAMINER

LABAZE, EDWYN

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 09/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/779,903

Applicant(s)

BRUNNER, JAMES

Examiner

EDWYN LABAZE

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-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 and 56-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 56-65 is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. Receipt is acknowledged of amendments filed on 6/09/2003.
2. Claims 1-52, and 56-65 are presented for examination.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8, 34-35, 37-38 and 48-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Jensen (U.S. 3,933,564).

Re claim 1, 34: Jensen discloses method of affixing labels to a web of sheet or film material and apparatus carrying out said method, which includes a web or roll of substrate/material P (col.4, lines 1+), a dispensing system (col.5, lines 32-45), a planar area 54 that moves parallel to the first direction and below the web P (col.7, lines 30+), wherein the web moves substantially independently of the planar area 54 (col.8, lines 43-66), and an applicator 18, 18a (col.4, lines 8+) that places a label upon a portion of the web that lies above the planar area.

Re claims 2, 35: Jensen teaches a system further includes a pressing apparatus that presses the label onto a portion of the web so as to attach the label to the portion of the web (col.5, lines 34+).

Re claims 3-4: Jensen discloses a system, wherein the dispensing system includes a moving conveyor (col.2, lines 32-37).

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Re claims 5-6, 37-38, 48-49: Jensen discloses a system, wherein the web and planar area move or rotate at substantially the speed/rate while the label is being pressed by the pressing apparatus onto the portion of the web (col.3, lines 19-48; col.4, lines 50-67; and col.5, lines 35+).

Re claim 7: Jensen teaches that the system, wherein the pressing apparatus includes a roller 12 (col.4, lines 63+) that presses the label unto a portion of the web.

Re claim 8: Jensen discloses that the system, wherein the pressing apparatus includes a second roller 37, 38 (col.7, lines 12+) opposite to the first roller, and the web and the planar area lie between the first and second rollers (see Fig. # 2 of Jensen).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9-15, 26-29, 39, 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen (U.S. 3,933,564) in view of Chamberlain et al. (U.S. 5,161,278).

The teachings of Jensen have been discussed above.

Jensen fails to disclose a security element printed on the label.

Chamberlain et al. teaches a strip of separable labels having a display surface for display of information thereon, which includes labels with security elements (col.8, lines 38+), wherein the security label includes a magnetically soft material (col.12, lines 58-60), an electro-

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magnetically operating oscillating circuit (col.13, lines 11-18), wherein the label includes an adhesive layer (col.6, lines 2+) which contains a first surface that adhesively engages the security element and a second element that adhesively engages a portion of the web (col.14, lines 28-49), wherein the label is attached to a second web prior to being placed on a portion of the web (col.14, lines 43-49).

In view of Chamberlain et al.'s teaching, it would have been obvious to artisan of ordinary skill in the art at the time invention was made to integrate security elements during the manufacturing of labels to prevent and detect theft and identification of the protected articles. The security element is used to that it emits a characteristic signal, which is detected by a detecting device and evaluated as an identification signal for merchandises/articles passing the monitoring on an unauthorized manner. Security elements can be placed under the labels to excite electro-magnetically or acoustically or by radio frequencies. Furthermore, such modification would have been an obvious extension as taught by Jensen, and therefore an obvious expedient.

Re claim 15: Jensen further teaches a system, wherein the dispensing system further includes a peeler plate that separates the second web from label (col.6, lines 31+).

7. Claims 16-21, 30-32, 42, 51, 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen (U.S. 3,933,564) in view of barber et al. (U.S. 4,183,779).

The teachings of Jensen have been discussed above.

Jensen fails to disclose a label comprising of an indicia, alphanumerics, barcode.

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Barber et al. discloses automatic indicia applying apparatus, which includes an indicia (col.5, lines 21-24), alphanumerics (col.3, lines 29-38 and col.30, lines 17+), barcode (col.13, lines 22-37).

In view of Barber et al.'s teaching, it would have been obvious to artisan of ordinary skill in the art at the time invention was made to employ into the teachings of Jensen a label with an indicia, alphanumeric, and barcode so as to identify the product onto which the label is applied thereto. Furthermore, label with indicia, alphanumeric and barcode has been used in the field/art for product's identification, wherein the barcode contains all the information (manufacturer, date, pricing, location of the product, and the like) of said product. Moreover, such modification would have been an obvious extension of the teaching of Jensen, therefore an obvious expedient.

Re claim 19: Jensen teaches a system, wherein the label comprises an adhesive layer that adhesively engages the portion of the web P (col.4, lines 60+).

Re claim 20, 40, and 42: Jensen discloses a system, wherein the label is attached to a second web prior to being placed on the portion of the web (col.6, lines 34-67).

Re claim 21, 41, and 44: Jensen further teaches a system, wherein the dispensing system further includes a peeler plate that separates the second web from label (col.6, lines 31+).

8. Re claims 22-25, 33 and 45-46: Jensen fails to disclose a system, wherein the dispensing system further includes a second applicator that places a second label upon the label placed on the portion of the web that lies above the planar area and a pressing apparatus for pressing the second label.

Barber et al. discloses automatic indicia applying apparatus, which includes a second applicator 123 that places a second label upon the label placed on the portion of the web that lies

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above the planar area (col.9, lines 67+ and col.10, lines 50+) and a pressing apparatus for pressing the second label (col.10, lines 44-49).

In view of Barber et al.'s teaching, it would have been obvious to artisan of ordinary skill in the art at the time invention was made to employ into the teachings of Jensen a second applicator and a pressing apparatus for attaching the second label so as to apply a second label. Furthermore, such modification would permit to attach a label onto another label containing the security of the labeling package. Moreover, such modification would have been an obvious extension as taught by Jensen.

Re claim 24: Jensen discloses a system, wherein the dispensing system includes a moving conveyor (col.2, lines 32-37).

Re claim 25, 48-49: Jensen discloses a system, wherein the web and planar area move or rotate at substantially the speed/rate while the label is being pressed by the pressing apparatus onto the portion of the web (col.3, lines 19-48; col.4, lines 50-67; and col.5, lines 35+).

Re claims 36 and 47: Jensen discloses a system, which includes a process of controlling the linear speed of the web along a first direction relative to the linear speed of the planar portion parallel to the first direction so as to diminish the risk that the web becomes skewed during pressing (col.1, lines 30-67).

Allowable Subject Matter

9. Claims 56-65 are allowed.

10. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to teach means of controlling the diminishing skewing of the portion

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of the web by controlling the linear speed of the web along a first direction and moving the planar parallel to the first direction, wherein the web moves substantially independently of the planar area. These limitations in conjunction with other limitations in the claims were not shown by the prior art of record.

Response to Arguments

11. Applicant's arguments filed on 6/9/2003 have been fully considered but are moot in light of the new ground of rejection.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rajala (U.S. 6,165,306) discloses a process and apparatus for cutting of discrete components of a multi-component work-piece and depositing them with registration on a moving web of material.

Kuppersbusch (U.S. 5,607,539) teaches a labeling apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWYN LABAZE whose telephone number is (703) 305-5437.

The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

el
Edwyn Labaze
Patent Examiner
Art Unit 2876
August 25, 2003



**THIEN M. LE
PRIMARY EXAMINER**